

Message

**From:** Miles, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C27D6E7B72E48508EF8AE5768CCAAD3-JMILES]  
**Sent:** 12/20/2018 3:46:15 PM  
**To:** Presler, Amos [presler.amos@epa.gov]; Saenz, Diana [Saenz.Diana@epa.gov]  
**CC:** Werner, Jacqueline [Werner.Jacqueline@epa.gov]; Baney, Tony [Baney.Tony@epa.gov]; Gardner, Geraldine [Gardner.Geraldine@epa.gov]  
**BCC:** Miles, James [miles.james@epa.gov]  
**Subject:** RE: TSCA 19(a) challenge to R3 PCB NON in Hazelton, Pa. (CA3)

Email looks good, wondering though if we should refine to reflect:

- The assignment of a DOJ atty

**Attorney Client / Ex. 5**

**From:** Presler, Amos  
**Sent:** Thursday, December 20, 2018 10:31 AM  
**To:** Saenz, Diana <Saenz.Diana@epa.gov>  
**Cc:** Werner, Jacqueline <Werner.Jacqueline@epa.gov>; Miles, James <miles.james@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>; Gardner, Geraldine <Gardner.Geraldine@epa.gov>  
**Subject:** TSCA 19(a) challenge to R3 PCB NON in Hazelton, Pa. (CA3)

Diana,

Here is an email Tony Baney drafted last week for you to send to Susan Bodine. Please copy Carol Holmes as well as the OCE front office. Tony looked at the underlying substantive use versus disposal issue, and I'll share that with you separately, since Rosemarie didn't feel the email needed to address anything beyond the procedural issues.

\*\*\*\*\*

Hazelton Creek Properties v. EPA

Hazelton Creek Properties, Moosic, Pennsylvania, filed a petition dated 12/5/18 for review with the U.S. Court of Appeals for the Third Circuit. The filing requests review of what the petitioner labels a "final agency action" in the form of a Notice of Noncompliance and Information Request.

The scheduling order required a government response by Thursday, December 20<sup>th</sup>, but DOJ filed an unopposed motion for extension of time to respond by January 8th. The motion has not yet been granted, but the clerk advised DOJ to proceed as if it will be granted.

**Attorney Client / Ex. 5**

Prior to the filing, the region met with attorneys for Hazelton. The Region also received a letter in response to the NON, detailing the petitioner's potential arguments/defenses. Bethany Fisher is the OGC attorney and Cheryl Jamieson is the regional attorney. OGC is securing a DOJ attorney.

Amos Presler, Acting Branch Chief  
Chemical Risk and Reporting Enforcement Branch  
U.S. EPA, OECA, Office of Civil Enforcement  
(202) 564-1076

This message is CONFIDENTIAL and may contain legally privileged information. If you are not the intended recipient, or if you believe you received this message in error, please delete it and notify the sender.